

S.B. CIVIL WRIT PETITION NO.5489/2004
Bhanwar Lal and another. vs. U.I.T. and others.

Date : 9.12.2004

HON'BLE MR. PRAKASH TATIA, J.

Mr. Pradeep Shah, for the petitioners.

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Heard learned counsel for the petitioners.

The petitioners are aggrieved against the order dated 28.4.2004 by which the trial court dismissed the application filed by the petitioners under Section 65 of the Indian Evidence Act. The petitioner sought permission to produce copy of patta in secondary evidence but that was refused by the trial court on the ground that the petitioner produced a photostat copy of the patta and the petitioner could have obtained a certified copy of patta from the concerned Panchayat and, therefore, the petitioners' application was dismissed only on the ground that the document which is sought to be produced is not falling within the categories of the documents which can be produced in secondary evidence. However, the trial court in its order very specifically mentioned that the plaintiff can file the certified copy of the patta.

I have considered the submissions of learned counsel for the petitioners and perused the reasons given in the impugned order. Since the application was dismissed only on the ground that the copy produced was not a certified copy of patta and which can be obtained by the petitioner from the concerned panchayat, therefore, the trial court has not committed any error of law and further, in view of the fact that the plaintiff has been given liberty by the trial court itself to produce

certified copy of the patta, no prejudice has been caused to the petitioners. No illegality is seen in the impugned order so as to incline this Court to invoke its writ jurisdiction.

In view of the above, this writ petition having no force is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya